

# LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL COURT

DANIELLE KAUFMANN,  
MEGAN SHANANAQUET and  
DANIEL SHANANAQUET (FATHER),

Case No. C-046-0903

Plaintiffs,

*Enrollment Appeal Decision*

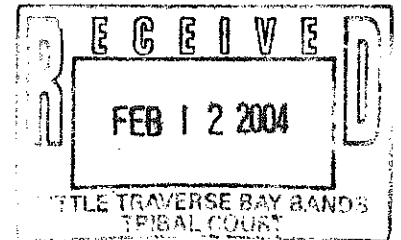
v.

LITTLE TRAVERSE BAY BANDS OF  
ODAWA INDIANS ENROLLMENT OFFICE,

Defendant.

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## DECISION OF THE COURT



### A. Issue Presented:

Whether the Tribe made **clear error** denying the two (2) minor children's application for membership? The father, who application for membership was granted, appeals the denial of his daughters' application for membership.

### B. Background:

The completed applications were filed by the father, on behalf of his two (2) minor children, on May 29, 2003. Both were denied for the reason that they did not meet the  $\frac{1}{4}$  minimum blood quantum requirement. It is from that denial that they appeal.

### C. Findings of Fact:

1. Daughter-Plaintiffs applied to become members of this Tribe on May 29, 2003.
2. Their applications were denied for the reason that they did not meet the  $\frac{1}{4}$  minimum Indian blood requirement.
3. On May 23, 1999 the Tribal Council enacted WOS 1999005 which included the following provision:

*All Persons listed on the Durant Roll who resided within the reservation or areas of residency listed in Section V(B)(1) at the time the payrolls were written shall be considered full Little Traverse. Section III (4).*

4. This provision of law was enacted notwithstanding an express requirement in the tribal constitution that the primary roll of the Tribe be the Durant Roll, **according to its field notes**. See WOTC § 1.104(A)(1) (emphasis added).
5. WOS 1999005 was the statutory provision that provided the opportunity for some who are actually less than ¼ Indian blood to become members of the Tribe.
6. Subsequent to the above-mentioned enrollment of some who are actually less than ¼ Indian blood, the Tribal Council repealed WOS 1999005 and enacted in its place WOS 2001-14.
7. WOS 2001-14 is intended to correct what was believed to be an earlier error.
8. The correction was made in a manner that did not jeopardize the membership rights of those who had enrolled *under WOS 199905*.
9. WOS 2001-14 states in pertinent part:

*The Enrollment Statute of December 19, 1999, being Waganakising Odawak Statute 1999014, is amended by deleting Sections V(B)(3) and VI, and adding the following new Section V(C):*

*The blood quantum of persons whose names appear on the Durant roll will be determined by the notations contained on the roll and accompanying field notes. Provided, solely for purposes of their own Tribal enrollment, the blood quantum of Tribal members who enrolled in reliance of the statutory provision in place from May 23, 1999 [WOS 1999005, Section V(B)(4); WOS 1999014 Section V(B)(3)], and the blood quantum of persons who submit their enrollment applications by December 31, 2001, shall not be effected by this amendment. WOS 2001-14 (emphasis added).*

10. WOS 199905 was in effect from May 23, 1999 to December 31, 2001. Thus, it was only in effect for slightly over a year and a half.
11. Plaintiffs did not submit their enrollment applications by the statutory deadline to take advantage of the full blood determination of WOS 1999005.

Conclusions of Law:

1. The beginning points for legal analysis of this appeal are the legal requirements for membership and the standard of review applicable to the instant matter.
2. WOTC § 2.114(C) provides *"The sole purpose of the Appeals Process will be to determine if there has been a **clear error** ... based on the evidence and documentation provided by the applicant to the Enrollment Department. The Tribal Court shall only overrule the declination ... if the evidence cannot reasonably be construed to support the action of the Tribal Council."* (Bold added for emphasis).
3. When Plaintiffs applied for tribal membership one of the membership requirements in place was ¼ minimum Indian blood. It is clear that the application of each Plaintiff was considered under this standard. The evidence presented clearly shows that the Daughter-Plaintiffs are less than ¼ Indian blood. Thus, Plaintiffs have failed to meet their burden of establishing clear error.
4. The ¼ minimum Indian blood requirement has been the standard throughout time, with the brief exception noted in the *Findings of Fact* above.

**WHEREFORE, FOR ALL OF THE FOREGOING, this Court denies Plaintiff's appeal and hereby dismisses this matter.**

02/12/04

Date

Honorable Michael D. Petoskey  
Chief Judge